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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO.96 OF 2005

IN

WRIT PETITION NO.1825 OF 2004

Maharashtra Gen.Kamgar Mahasangh

through

United Ink Employees Union

...Petitioner

Vs.

Regional Director, Mumbai,

Maharashtra Pollution Control Board

& Anr.

...Respondents

Mr R.D.Bhat for the Petitioner.

Mr J.P. Cama a/w P.M. Palshikar for the Respondents.

CORAM : S.K.SHAH, J.

DATE : NOVEMBER 19, 2005.

P.C.:

1. The Writ Petition is disposed of in terms of Minutes of Order dated 28.10.2004. By the said Minutes of Order of the Respondents factory was required to be shifted in view of the order passed by

the Maharashtra Pollution Control Board directing the closure of the factory of the Respondent No.2 situated at Vile Parle.

2. The undertaking that was given while shifting the factory was that the Respondent No.2-Company would protect the jobs and wages/salaries of all the employees of their factory after factory is shifted to Taloja. This was recorded by the Court on 01.11.2004. Infact, the factory was shifted to Taloja in December 2004 and the employees of the Petitioner-Union were continued with their employment at the shifted premises.

3. Subsequently, Directors of the Respondent No.2 passed resolution on 31st May, 2005 undertaking the sell of the factory. In the said resolution it was mentioned that in case the new buyer is not interested in continuing the services of the employees-Union, the employees services should be terminated and compensation should be paid as per the provisions of Section 25FF of the Industrial Disputes Act. Actually, the Memorandum of Understanding shows that sell was executed on 07.06.2005. Since the buyer was not interested in continuing the services of the employees of the Respondent No.2-Company, their services came to be terminated.

4. In Contempt Petition it is mentioned that the Respondent No.2 had made false representation to the

Court while entering into the Minutes of Order that came to be passed on 01.11.2004 and therefore, action of the contempt should proceed against the Respondents.

5. The learned Counsel for the Respondent submitted that sell was never in contemplation of the Respondents when the Minutes of Order were filed before the Court and the Court disposed of the Writ Petition in terms of the Minutes of Order. He submits that the Respondents decided to sell the factory premises as the factory was running in the losses. He further submits and it is admitted by the learned Counsel for the Petitioner that the facts of sell are challenged in the ULP.

6. The learned Counsel for the Petitioner submits that it is the case of false representation.

7. The learned Counsel for the Petitioner is unable to point out that the false representation was made to the Court when Minutes of Order were filed before the Court in Writ Petition. All the grievance which the learned Counsel for the Petitioner makes is that they were not disclosed the intention of selling the factory by the Respondent No.2. No law was pointed out which requires such disclosure to be made to the Respondents by the factory owners of their intention to sell the factory. In fact, while passing the resolution for sell, the interest of the employees was attempted to be guarded by stating therein that there should be

persuasion to the buyer to continue the employment of the Petitioners Members and only in case new buyer is not interested in continuing their services then, the services of the employees were considered for termination and payment of compensation under section 25FF of the Industrial Disputes Act.

8. I do not find any merit in the Contempt Petition and the same is, therefore, dismissed.

(S.K.SHAH, J)